

Amendments to HB 681

Patrick Judge, MEIC 443-2520

During the hearing on HB 681, there was wide agreement that the City of Great Falls and other "competitive electricity suppliers" should meet the renewable energy standards that apply to NorthWestern Energy and Montana-Dakota Utilities, but that it is reasonable for them to "play by the same rules" with respect to cost-caps and penalties for non-compliance.

The following amendments were prepared with input from PSC staff, MEIC, NRDC/RNP, and NWE. They also help address the concerns that were put forth by the PSC in their informational testimony and factsheet. Here is a brief explanation of each of the proposed amendments:

- 1) Title change to bring the cost-cap section into the bill.
- 2 - 3) Technical changes to reflect the addition of subsection 12 to the bill. That new subsection addresses a concern that was voiced by the PSC staff (see below for further discussion).
- ~~3 - 5~~ ~~A - B~~) These changes bring competitive electricity suppliers under the penalty provisions of the Act.
- ~~6 - 9~~ ~~A - D~~) These changes allow competitive electricity suppliers to take advantage of the Act's off-ramps for reliability concerns and for events beyond their control.
- ~~10~~ ~~M~~) This change is a savings clause-type exemption that pertains to retail sales under contracts that are already in place. Electric City Power, for example, is a non-profit utility that has no shareholders. If it fails to comply with the renewable energy standard, it would also be difficult for it to pass those penalties on to its customers under existing contracts. New and renewed contracts, however, must allow for this possibility.
- ~~11 - 12~~ ~~M - N~~) For large investor-owned utilities, requiring competitive solicitations and long-term contracts makes sense. For competitive electricity suppliers, it may not. These suggested changes were recommended by PSC staff, and address the concern (observation #2) from the PSC factsheet that was presented during the hearing.
- ~~13~~ ~~M~~) The first part of this amendment grants the commission the limited authority it needs to implement the provisions of HB 681. The second part of this amendment is the cost-cap. The cost-cap is to be developed by the commission for each competitive electricity supplier based on the spirit and the letter of the cost-caps already in place for the investor-owned utilities. This process will include an opportunity for input from all interested parties.

INFORMATIONAL TESTIMONY REGARDING HB 681
Extend Renewable Portfolio Act to municipal utilities & competitive electricity suppliers

Ken Toole
Commissioner, Montana PSC
February 16, 2007

Mr. Chairman and Members of the Committee,

The Public Service Commission has no position on HB 681, but offers these few observations on the bill:

1. On page 4, line 19, the insertion of the words "electrical energy procured under" appears to be a drafting error. That amendment would change current law to prohibit entities to which the renewable standards apply from using a combination of electricity from an eligible resource and renewable energy credits, which are not "electrical energy," to meet the standard.
2. On page 5, Section 3, subsection (2), the PSC observes that, because competitive electricity suppliers are not regulated by the Commission, it could be difficult to develop an effective and meaningful process for PSC evaluation of the electricity suppliers' demonstrations required by this provision with respect to contracts of less than 10 years providing a lower long-term total cost.
3. The PSC notes for the committee's information that the commission rules referred to on page 6, line 10, were adopted with regulated utilities in mind. The extension of their application to competitive electricity suppliers would likely require some modification of the rules.
4. There are no provisions in HB 681 to enforce competitive electricity suppliers' compliance with the law.

Thank you for the opportunity to comment.